

February 27, 2007

**REQUEST FOR PROPOSALS
WASTE REDUCTION AND RECYCLING TECHNICAL ASSISTANCE**

I. INTRODUCTION

A. Background.

This request for proposals is being issued by the County of San Bernardino Public Works Department, Solid Waste Management Division (SWMD) to select a professional consulting firm to provide technical assistance with planning, developing and implementing commercial and industrial waste reduction, diversion, reuse and recycling programs and pilot projects within the County's unincorporated areas. SWMD is delegated responsibility for compliance with Assembly Bill 939, which requires cities and counties to reduce the amount of waste disposed of in landfills by 50% by the year 2000. San Bernardino County failed to achieve 50% diversion by 2000 and to date have achieved 49% diversion. The County is one of the largest counties in the nation spanning over 21,000 square miles. Communities range from urban (valley & mountain area) to rural (desert area).

The County provides waste and recyclables collection to the unincorporated area by means of private haulers. Recycling is available to businesses but at an additional cost. In addition, the majority of the businesses are located in retail centers and industrial complexes; tenants share trash and recycling bins so a cooperative effort is essential for success. Often the majority of businesses within an industrial park will agree to recycle, and one or two others will refuse, resulting in contamination of recycling bins. Unless each business is willing to participate in the program, contamination of recycling containers occurs and thwarts the project. The SWMD is looking for ways to overcome these obstacles by developing a program that offers practical incentives to businesses and/or commercial property owners to reduce, reuse, and recycle.

The unincorporated area business community consists largely of retail food establishments and light industrial businesses such as car repair, small business retail, carpentry, metal fabricators, mini-marts, wood workers, etc. Waste assessments conducted by SWMD staff indicate the larger volumes of recoverable waste generated by businesses is cardboard, HDPE plastic, metal cans, paper, and sawdust. Also in the unincorporated area are large venues including the California Speedway located in unincorporated Fontana, and the outdoor entertainment Hyundai Pavilion, which present waste diversion challenges. Moreover AB 2176 requires that local jurisdictions receive waste management plans from the top ten percent (by waste generation) events and venues in the county. In addition, mobile home parks and multifamily dwellings represent a significant waste stream for which the County is looking to target for waste reduction programs.

The successful consultant will be awarded a contract commencing on June 19, 2007 and ending on June 30, 2008.

B. Project Title.

Business Waste Reduction and Recycling Technical Assistance

C. Project Description.

The County of San Bernardino is seeking proposals from qualified consultants to secure the services necessary to provide technical assistance with planning, developing and implementing waste reduction incentive programs for businesses utilizing educational materials, and recycling incentive grants.

D. Minimum Qualification Requirements

1. Have no deficiencies or unsatisfactory performance on any past County contract(s).
2. The Proposer must possess the knowledge and experience necessary to successfully perform the work described in the RFP at the time the contract is executed. The Proposer must have the resources to perform the work.
3. Specifically, the Proposer must have a minimum of five (5) years of experience in planning, developing and implementing comprehensive waste reduction, reuse and recycling programs, conducting and analyzing waste audits, waste reduction and recycling presentations, business presentations, and development of newsletters, video, and other materials.
4. Meet other presentation and participation requirements listed in this RFP.

E. Contact Person

All questions or correspondence relating to this RFP are to be directed to:

Olivia Sanchez
Recycling Specialist II
Solid Waste Management Division
County of San Bernardino
222 West Hospitality Lane, 2nd Floor
San Bernardino, CA 92415-0017

(909) 386-8762 Telephone
(909) 386-8964 Facsimile

During the proposal and evaluation process, the individual identified above is the sole contact point for any inquiries or information relating to this RFP. If authorized by the County's contact in writing, other County staff or contractors may provide information. Any violation of this procedure may be grounds for disqualification of the Proposer.

F. Proposal Submission Deadline.

All proposals must be received at the address listed above **no later than 4:00 p.m., April 30, 2007. Facsimile or electronically transmitted proposals will not be accepted since they do not contain an original signature. Postmarks will not be accepted in lieu of actual receipt. Incomplete proposals will not be considered. Late proposals will not be opened.** It is the responsibility of the Proposer to ensure that the RFP responses arrive in a timely manner.

II. PROPOSAL CONDITIONS

A. Contingencies.

This RFP does not commit the County of San Bernardino to award a contract. The County reserves the right to accept or reject any or all proposals or waive irregularities if the County determines it is in the best interest of the County to do so.

B. Acceptance or Rejection of Proposals.

Proposals shall remain open, valid and subject to acceptance anytime up to one (1) year after the proposal opening date and time. The County realizes that conditions other than lowest cost are important and will award contract(s) based on the proposal(s) that best meet the needs of the County.

C. Modifications.

The County reserves the right to issue addenda or amendments to this RFP.

D. Proposal Submission.

To be considered, all proposals must be submitted in the manner set forth in this proposal. It is the Proposer's responsibility to ensure that its proposal arrives on or before the specified time.

E. Incurred costs.

This RFP does not commit the County to pay any costs incurred in the preparation of a proposal in response to this request and Proposer agrees that all costs incurred in developing this proposal are the Proposer's responsibility.

F. Negotiations.

The County may require any firm selected to participate in negotiations and to submit revisions to any aspect of its proposal, including without limit, costs, as may result from negotiations.

G. Final Authority.

The final authority to award contracts as a result of this RFP rests solely with the County of San Bernardino Board of Supervisors.

III. SCOPE OF SERVICES

- Develop and coordinate the implementation of a business waste prevention awareness program.
- Assist SWMD in the development of waste reduction and recycling programs for implementation at mobile home parks and multifamily dwellings.
- Prepare and conduct up to five (5) business waste prevention and recycling technical assistance workshops per year targeting retail food and industrial waste prevention.
- Develop a speaker's bureau on business waste reduction and recycling.
- Develop waste reduction/recycling programs for large venues/outdoor entertainment facilities such as the California Speedway and Hyundai Pavilion, correctional facilities and golf courses.
- Develop model lease clauses for owners/lessees of commercial parks to include a recycling component.

B. Project Administration.

The project administration task shall include overall project administration services such as project scheduling, tracking, budgeting, invoicing, and meetings. Invoicing for this project shall indicate the project and task numbers.

Note: a Mandatory Pre-Proposal Meeting is scheduled for **March 26, 2007 @ 10:00 a.m.**

IV. AGREEMENT TERMS

A. General.

1. The firm selected will be required to agree to the contract terms contained in the attached Attachment "2." If Proposer has any objections, these objections must be addressed in the RFP response to the County or the objections will be deemed to have been waived.

V. PROPOSAL SUBMITTAL

A. General.

1. All interested and qualified Proposers are invited to submit a proposal for consideration. Submission of a proposal indicates that the Proposer has read and understands this entire RFP, to include all appendixes, attachments, exhibits, schedules, and addendum (as applicable) and all concerns regarding this RFP have been satisfied.
2. Proposal must be submitted in the format described below. Proposals are to be prepared in such a way as to provide a straightforward, concise description of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays or promotional materials, are neither necessary nor desired. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.
3. Proposals must be complete in all respects as required in this section. A proposal may not be considered if it is conditional or incomplete.
4. All proposals and materials submitted become the property of the County. All proposals received are subject to the "California Public Records Act" (found at Government Code sections 6250 et seq.).

If any Proposer's response contains trade secrets, or other information which is proprietary by law, that Proposer must notify the County of its request to keep said information confidential. This request must be made in writing and attached to the envelope containing the proposal response. The proprietary or confidential data shall be readily separable from the response in order to facilitate eventual public inspection of the non-confidential portion of the response. If a public records request is made to the County relative to the Proposer's response, the County will review the Proposer's request for confidentiality and notify the Proposer in writing of its decision as to whether confidentiality can be maintained under law.

5. The County has adopted a recycled product purchasing standards policy, which requires Proposers to use recycled paper for proposals and for any printed or photocopied materials created as a result of a Contract with the County and/or the

SWMD. The policy also requires Proposers to use both sides of paper sheets for reports submitted to the County whenever possible.

6. RESERVED.

B. Proposal Presentation.

1. All proposals must be submitted on 8 ½" x 11" paper, neatly typed, double-sided on recycled paper, with normal (1-inch) margins, and single-spaced. Typeface must be no more than 12 characters per inch. Each page, including attachments and exhibits, must be clearly and consecutively numbered at the bottom center of the page.
2. One (1) marked as original and five (5) copies (total of 6) of the complete technical proposal must be received by the deadline for receipt of proposal specified in Section I, F. The original and all copies must be in a sealed envelope or container and submitted to the County contact identified in Section I, E. The Proposer's submittal shall also contain, in a separate sealed envelope, a cost estimate as provided in Section VII, F.
3. Hand carried proposals may be delivered to the address specified in Section I, E, above ONLY between the hours of 8:00 a.m. to 5:00 p.m., Mondays through Friday, excluding holidays observed by the County. Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements, and for ensuring that the address information appears on the outer wrapper or envelope used by such service. Proposers are solely responsible for ensuring that the responses are delivered in a timely manner. County is not responsible for any incorrect or late deliveries.

VI. PROPOSAL SUBMISSION

A. Instructions to Proposers

Proposer should carefully follow the format and instructions contained in this RFP, observing format requirements where indicated.

B. Contents of Proposal

The proposal shall be written in sufficient detail to permit the County to conduct a meaningful evaluation of the proposed services. The proposal must contain the information set forth in Section VII, below.

VII. REQUIRED PROPOSAL CONTENT

A. Organizational Information Describing the Responding Firm and Proposed Sub-Consultants.

1. Identify the owners, principals, and management staff of the firm and sub-contractor(s).
2. Indicate the type of firm or partnership and indicate whether the firm and sub-contractor(s) is locally owned, statewide, national, etc.
3. Identify the location, total size, and composition of the staff of the office(s) to be primarily responsible for services provided to the SWMD.

4. Identify, and indicate the specific skills, qualifications, and expertise of, those employees who would be directly involved in providing the requested services.

B. Experience and Services of Responding Firm and Proposed Sub-Consultants, if any

1. Identify the firm's and the sub-contractor's specific familiarity and experience preparing newsletters focused on waste prevention, providing waste reduction technical assistance to businesses, developing waste reduction and recycling promotional materials (including video production).
2. Using specific project examples, identify the experience of the firm in the performance of developing business waste prevention educational materials and conducting waste prevention technical assistance workshops within the educational and business community.
3. Identify the full range of services that could be provided by the firm in support of the contracted services
4. Submit an example or examples of work experience and related products for similar types of programs performed and developed by the firm under contracts to other entities.
5. State the number of years that the Proposer has been providing the services identified in this RFP.
6. Describe the firm's general approach to the services requested in this RFP.
7. Describe any other experiences related to the work or services described in the Scope of Services, and provide any additional information specific to the capabilities required in this RFP.
8. List any transactions in which Proposer has participated on behalf of the County. The County will review all contracts the Proposer has performed for the County, which requires in Section I, D that a Proposer's past performance be set forth and which performance will be considered in the selection. As such, in listing and describing all work performed for the County, the Proposer must include: the name of the County Department involved in the transaction, the contact person(s) on the transaction and the dollar value and date of the transaction.
9. Provide a minimum of three (3) references relative to the performance of services of a nature similar to the services to be performed pursuant to this RFP, which services are either in progress or were completed within the past three years. Please provide the name, address, and telephone number for each of these references and a brief description of the transaction(s) on which the firm provided services. Please do not include County personnel in this list, and please confirm contact information (e.g., phone numbers, affiliation, etc.) prior to submitting proposal. References that cannot be contacted using the information provided will not be used in proposal evaluation.
10. The selection of outside vendors by respondents shall be made on the basis of qualifications, however, costs are important in that they must be fair and reasonable as determined by the County. Copies of the vendor selection criteria and all vendors' responses shall be included in an appendix to the proposal.

C. Financial statements.

Proposer must provide the Company's Organizational Annual Report for the last two years. Proposer must also include one (1) copy, with the original Proposal, of an independently audited financial statement for the most recently completed fiscal year. If an audited financial statement is not available, please provide an unaudited financial statement, along with a certification from the owners and the Company's accountant that the information accurately reflects the company's current financial status. If the business is a sole proprietorship, please provide Schedule C of the Internal Revenue Service forms as well as a certification from the owner and the accountant that the information accurately reflects the business' current financial status.

D. Key Personnel and Subcontractors Performing Services.

1. Describe the experience, qualifications and other vital information, including relevant experience on previous similar projects, of all key individuals who may be assigned to perform the services described in this RFP. Key personnel include partners, managers, associates, and other professional staff that will perform work and/or services in this project. This information shall include functions to be performed by the key individuals.
2. Provide information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent your business or sub-contractor(s). The information provided must include a list of former county administrative officials who terminated county employment within five (5) years and who are now officers, principals, partners, associates, or members of the business or of the sub-contractor(s). The information should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of your business or the sub-contractor(s). For purposes of this section, "county administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, county department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

Failure to provide this information may result in the response to the request for proposal (qualifications) being deemed non-responsive.

3. The County reserves the right to request the information described herein from the vendor selected for contract award. Failure to provide the information may result in a disqualification from the selection process and no award of contract to the vendor. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The selected vendor also may be requested to provide information to clarify initial responses. Negative information provided or discovered may result in disqualification from the selection process and no award of contract.

The selected vendor may be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the vendor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the selected vendor may be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the vendor will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employee" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

 X If checked, the proposer is required to provide with the proposer's response any information responsive to the requested disclosures set forth in this paragraph D.3. of this Section VII.

Any information provided in response to Section C or D, which is deemed by the Proposer to be confidential or proprietary shall be so marked in accordance with Section V, A, 4.

E. Proposed Services.

Identify, in some detail, the approach to be taken in providing the services requested in Section III., include a proposed schedule for conducting activities and a budget for deliverables. Include any proposal for additional and/or alternative project activities. The proposal should be sufficiently detailed to serve as a draft scope of work to be finalized and incorporated into a professional service agreement.

F. Cost Estimate and Fees for Services.

1. Provide in a separate sealed envelope a cost estimate, based on the scope of work outlined in Section III., above, and itemized accordingly. It is the policy of the County that such a cost estimate shall not be the primary criteria for evaluating professional service proposals. The cost estimate shall not be considered until proposals have first been evaluated as to the Proposers' experience, qualifications, professionalism, quality of work, and approach. Cost estimates shall generally be used to evaluate whether a service proposal is reasonable and realistic in light of the program requirements. After selection of the preferred consultant, the final scope of work and level of compensation shall be negotiated.
2. The amount of the Contract shall be for a maximum of \$150,000. This amount includes compensation to the consultant for their services as delineated in Section III Scope of Services and for the actual cost of materials, printing, advertising etc. necessary to perform the scope of work identified. The consultant shall submit a cost schedule that shows the amount of compensation required for their services for each task as outlined in this RFP. Any expenses that the consultant expects to incur relating to these services should be incorporated in their hourly rate and no separate payment will be allowed. The consultant shall submit a separate schedule for the estimated cost of implementing the programs. The cost schedule for the implementation of the programs is subject to approval by the SWMD. Hourly fees for services and direct and indirect expense charges for the term of the contract shall also be submitted with the cost estimate in the sealed envelope. Fees for any projected subcontracted services shall also be enclosed.

G. Supplemental Information

1. Any additional relevant information the Proposer wishes to include.

VIII. EVALUATION/SELECTION PROCESS

A. Introduction.

Following the opening of the proposal packages, the proposals will be evaluated by the Selection Committee. The committee will be comprised of representatives from the County, an expert in the field of waste reduction and recycling, and, if possible, a representative of a regulatory agency. The Selection Committee will review and select the successful Proposer in accordance with the County's policy.

B. Proposal Evaluation.

1. Initial Review.

Staff will initially review each proposal for adherence to the minimum requirements. If a proposal does not meet these minimum requirements, it may be rejected as non-responsive to the RFP. Proposals deemed non-responsive at this point will not be further evaluated.

2. Technical Review.

The Selection Committee will evaluate responsive proposals on the experience and qualifications of the firm and on the approach to services. The Selection Committee's primary selection criteria will be the extent to which a proposal:

- demonstrates Proposer's experience, qualifications, and competence in performing described services;
- communicates the Proposer's approach and ability to provide professional guidance; and
- demonstrates adequate staff, resources, and time to meet schedule milestones.

In addition, the Selection Committee's evaluation will consider the number and significance of the exceptions taken by Proposer to the Agreement Terms set forth in Section IV of this RFP.

3. Additional Consideration.

It is the County's policy to afford all local businesses the maximum opportunity to participate in County procurements. If quality, service, and cost are equal, procurement will be made from local businesses.

C. Oral Presentations.

Upon completion of the Initial and Technical qualifications evaluation, the Selection Committee may require oral presentation(s) of those Proposer(s) the Selection Committee deems to warrant further consideration.

D. Selection.

The Selection Committee will rank the Proposer's based upon the above. Following the evaluation of the proposals, the Selection Committee will present its analysis and recommendation to the Solid Waste Management Division.

E. Award.

Following the ranking, the Solid Waste Management Division will open the cost proposals of all Proposers and consider both the appropriateness and fairness of the cost proposed by the first ranked Proposer in light of the level and quality of the proposed services. The Solid Waste Management Division will negotiate with the first ranked Proposer, including potentially as to costs, and prepare a professional services contract. If the Solid Waste Management Division is unable to reach an agreement with the first ranked Proposer it shall notify such Proposer that negotiations are being discontinued and it shall then contact the second ranked Proposer to commence negotiations for the preparation of a professional services contract. This process will be followed with each ranked Proposer until either an acceptable professional services contract is negotiated or the Solid Waste Management Division determines that an acceptable contract cannot be negotiated with any of the ranked Proposers (which determination is in the sole discretion of the Solid Waste Management Division and will not require negotiations to be entered into with each of the ranked Proposers). If an acceptable professional services contract is negotiated it will be brought before the Board of Supervisors for approval and execution.

IX. PROTEST

Proposers may protest the recommended award, provided the protest is in writing, contains the RFP title, is delivered to the address listed on the cover sheet of this RFP, and is submitted within ten (10) calendar days of the date of the notification of intent to award.

Grounds for a protest are:

- ☐ The County's failure to follow the selection procedures and adhere to requirements specified in the RFP or any addenda or amendments;
- ☐ Violations of conflict of interest as provided by California Government Code section 874100 et seq.; or,
- ☐ Violations of state or federal law.

Protests will not be accepted on any other grounds. In the event of a protest, all protests will be handled by a panel designated by the Assistant County Administrator – Economic Development and Public Services Group whose decision shall be final and shall not be subject to further review or appeal.

The County will consider only those specific issues addressed in the written protest. A written response will be directed to the protesting proposer within fourteen (14) calendar days of receipt of the protest, advising of the decision with regard to the protest and the basis for the decision.

X. ESTIMATED SCHEDULE FOR SELECTION OF CONSULTANT

ACTION**DATES**

Request for Proposals (RFP) issued	March 1, 2007
Mandatory Pre-Proposal Meeting	March 26, 2007
Submission of RFP To County	April 30, 2007
Staff Screens Proposals & Short Lists Consultants	May 7-9, 2007
Interviews (the County reserves the right to waive the Interviews and select the Consultant from the Short List of Consultants)	May 14-16, 2007
Select Consultant	May 21, 2007
Contract Presented to Board for Consideration	June 19, 2007

Request for Proposals

ATTACHMENT 1

Request for Proposals

ATTACHMENT 2

Standard Contract



County of San Bernardino

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

New Change Cancel	Vendor Code			SC	Dept.	A	Contract Number		
County Department DPW – Solid Waste Management Division					Dept.	Orgn.	Contractor's License No.		
County Department Contract Representative Peter H. Wulfman, Division Manager					Telephone 386-8703		Total Contract Amount		
Contract Type <input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:									
If not encumbered or revenue contract type, provide reason:									
Commodity Code			Contract Start Date		Contract End Date		Original Amount		Amendment Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.		Amount		
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.		Amount		
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.		Amount		
Project Name Project No.				Estimated Payment Total by Fiscal Year					
				FY	Amount	I/D	FY	Amount	I/D
Contract Type -									

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name

Address

Telephone

Federal ID No. or Social Security No.

hereinafter called

SAMPLE

IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

1. Project.

Consultant shall perform consulting services for the project described as

2. Retention of Consultant.

County hereby retains the Consultant, as an independent contractor, to perform the required services within the time limits hereinafter specified.

Consultant herein designates _____ to be the Project Manager. Consultant shall not change the primary contact without written acknowledgment to the County. The Project Manager or designee must respond to County inquiries within two (2) business days. If the Project Manager will be unavailable to the County for more than three (3) days, another person must be

designated as a contact for the County. Further, Consultant must provide a list of and the résumés of the individuals who will provide services to the County. These individuals will be designated “key personnel” and may not be removed from the project that is the subject matter of the Contract without the written approval of the County.

Consultant may, at Consultant’s own expense, employ subcontractors to accomplish the work of this Contract. However, Consultant agrees not to enter into any subcontracting Contracts for work contemplated under the Contract without first obtaining written approval from the County. County hereby agrees to _____ as the subcontractor(s) qualified to perform the work in its areas of expertise. The fact that Consultant employs subcontractors not in its regular employ shall not relieve Consultant from any responsibility regarding the adequacy of its designs or other work.

3. Scope of Work.

Consultant will provide services in accordance with the Request for Proposal (“**RFP**”) entitled _____ dated _____, and incorporated herein by reference.

The Scope of Work shall include, but is not limited to, all items listed in Exhibit “1” attached hereto. Said Scope of Work also includes any relevant dates by which the performance of Consultant of any item of work needs to be completed.

The provisions of this Contract shall control any contrary provision or term of either the Consultant’s proposal or of the County’s Request for Proposal.

4. Commencement of Work.

Consultant shall commence work immediately upon receipt of a notice to proceed from the Solid Waste Management Division (“**SWMD**”) following the acceptance of this Contract by the Board of Supervisors. Consultant shall confer on a bi-weekly basis with the County’s Project Manager to review progress of work elements, adherence to work schedule, coordination of work, scheduling of reviews, and resolve any problems that may develop.

5. Compensation.

For the work authorized under this Contract, Consultant shall be compensated for the work performed in an amount not to exceed \$_____.

Consultant bears the risk that it may not be able to generate its anticipated (or any) profit in completing its performance of all required items of work for the specified level of compensation. Alternately, Consultant is entitled to receive the specified level of compensation notwithstanding that it is able to perform all required items of work with the expenditure of less labor, material or the incurrence of less expense, than anticipated by the parties. In no event shall Consultant be entitled to receive compensation for any item of work required of Consultant under the terms of this Contract, which item of work is not performed by Consultant (including Consultant’s agents and subcontractors).

Consultant’s “Cost Proposal”, attached as Exhibit “2”, hereto, sets out the Consultant’s estimate of the cost (including wages) of completing the project. The Cost Proposal was used by the County to determine the reasonableness of the cost of Consultant’s proposal and is further used in

making progress payments to Consultant and in making payment to Consultant in the event of the termination of the Contract prior to the completion of all items of work. Consultant is not entitled to any additional compensation by virtue of its costs (including wages) for any item of work exceeding the cost set forth in its Cost Proposal, including excess costs related to delays in completion of the project.

Consultant shall provide County itemized monthly invoices in arrears, for services performed under the Contract within twenty (20) days of the end of the previous month. Invoicing for this project shall indicate the project and task numbers. Consultant's itemized monthly invoice shall be in the form of an Invoice Summary attached and incorporated herein as Exhibit "3." The County shall make payment to Consultant within thirty (30) working days after receipt of invoice or the resolution of any billing dispute.

Notwithstanding any other provision of this Contract (including any attachments), in no event will the County pay late fees to the Consultant on the compensation due Consultant under the terms of this Contract.

6. Term of Contract.

The term of the Contract shall be for a period of () year commencing on

7. Termination for Convenience.

The County for its convenience may terminate the Contract in whole or in part upon ten (10) calendar days written notice. If such termination is affected, an equitable adjustment in the price provided for in this Contract shall be made. Such adjustment shall provide for payment to the Consultant for services rendered and expenses incurred prior to the effective date of termination. Upon receipt of termination notice Consultant shall promptly discontinue services unless the notice directs otherwise. Consultant shall deliver promptly to the County and transfer title (if necessary) to all completed work, and work in progress, including spare parts, drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

8. Indemnification.

The Consultant agrees to indemnify defend and hold harmless the County and its authorized officers, employees, agents and volunteers, from any and all claims, actions, losses, damages and/or liability arising out of Consultant's errors or omissions and for any costs or expenses incurred by the County, on account of any claim therefore, except where such indemnification is prohibited by law.

9. Insurance.

(a) Coverage

Without in any way affecting the indemnity herein provided and in addition thereto, the Consultant shall secure and maintain throughout the Contract the following types of insurance with limits as shown:

- 1) Worker's Compensation – A program of Workers' Compensation insurance or a State-approved Self-Insurance Program in an amount and form to meet all applicable

requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Consultant and all risks to such persons under this Contract.

If Consultant has no employees, it may certify or warrant to County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Risk Manager.

With respect to Consultants that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance. If the County's Risk Manager determines that there is no reasonably priced coverage for volunteers, evidence of participation in a volunteer insurance program may be substituted.

- 2) Comprehensive General and Automobile Liability Insurance – This coverage to include contractual coverage and automobile liability coverage for owned, hired and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000).
- 3) Errors and Omissions Liability Insurance – Combined single limits of \$1,000,000 for bodily injury and property damage and \$3,000,000 in the aggregate or

Professional Liability – Professional liability insurance with limits of at least \$1,000,000 per claim or occurrence.

(b) Additional Named Insured

All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.

(c) Waiver of Subrogation Rights

Except for Errors and Omissions and Professional Liability, Consultant shall require the carriers of the above-required coverages to waive all rights of subrogation against the County and its officers, employees, agents, volunteers, contractors, and subcontractors.

(d) Policies Primary and Non-Contributory

All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

(e) Proof of Coverage

The Consultant shall immediately furnish certificates of insurance to the SWMD evidencing the insurance coverage, including the endorsements above required, prior to the commencement of performance of services hereunder, which certificates shall provide that

such insurance shall not be terminated or expire without thirty (30) days written notice to the SWMD. Consultant shall maintain such insurance from the time Consultant commences performance of services under the Contract until the completion of such services. Within sixty (60) days of the commencement of the Contract, the Consultant shall furnish certified copies of the policies and all endorsements.

(f) Insurance Review

The above insurance requirements are subject to periodic review by the County. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized but not required to change the above insurance requirements, to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

10. Licenses and Permits.

Consultant shall ensure that it has all necessary licenses and permits required by the laws of Federal, State, County, and municipal laws, ordinances, rules, and regulations. The Consultant shall maintain these licenses and permits in effect for the duration of the Contract. Consultant will notify County immediately of loss or suspension of any such licenses and permits. Failure to maintain a required license or permit may result in immediate termination of the Contract. Professional Engineers shall be duly registered in the State of California.

11. Notification Regarding Performance.

In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under the Contract, the Consultant shall promptly notify the County in writing and by telephone.

12. Ownership of Documents.

All documents, data, products, graphics, computer programs, and reports prepared by Consultant pursuant to the Contract shall be considered property of the County upon payment for services. All such items shall be delivered to County at the completion of work under the Contract. Unless otherwise directed by County, Consultant may retain copies of such items. Reuse of such documents beyond the intended scope of Consultant's contract shall be at the County's sole risk.

13. Artwork, Proofs and/or Negatives.

All artwork, proofs, and/or negatives in either print or digital format for the project that is the subject matter of the Contract are the property of the County. These items must be returned to the County within ten (10) days upon written notification to the Consultant. In the event of a failure to return the documents, the County is entitled to pursue available legal remedies. In addition, the Consultant will be barred from all future solicitations, for a period of at least six (6) months.

14. Release of Information.

No news releases, advertisements, public announcements or photographs arising out of the Contract or Consultant's relationship with County may be made or used without prior written approval of the County.

15. Contact with Regulatory Agencies.

Except for emergencies, or except for situations where contact is required by law or relevant professional canons of ethics (in which case Consultant will use its professional efforts to notify and confer with the County before such contact, the parties recognizing that there may not be the time for such in an emergency), Consultant shall not contact the LEA, SCAQMD or other regulatory agencies concerning any site that is the subject of this Contract without SWMD's prior approval.

16. Right to Monitor and Audit.

The County shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Consultant in the delivery of services provided under the Contract. Consultant shall give full cooperation, in any auditing or monitoring conducted. Consultant shall cooperate with the County in the implementation, monitoring, and evaluation of the Contract and comply with any and all reporting requirements established by the County.

All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under the Contract or until all pending County, State and Federal audits are completed, whichever is later.

17. Cooperation Between All System Contract Contractors.

This Contract is but one of the County contracts which are or will be necessary to keep, operate and maintain the County's Solid Waste Disposal System ("**Disposal System**"), including without limit for the overall expansion, operation, maintenance, remediation and closure of the Disposal System. Specifically, but not by way of limitation, the County has entered, or will enter, into the following contracts with third parties: (i) construction contracts related to various aspects of the expansion, remediation and closure of the Disposal System; (ii) contracts for the management of the foregoing construction contracts, to the extent the County does not manage such contracts with its own employees; (iii) a contract for the aggregate operation at the Mid Valley Landfill; (iv) contracts for the operation and maintenance of the landfill gas collection systems located at various County Landfills; (v) the lease of the landfill gas collection systems and lease of the rights to the landfill gas collected by such systems; (vi) a contract for the operation of the Baker Transfer Station; (vii) a Development Contract with the City of Rialto regarding various aspects of the expansion of the Mid Valley Landfill; (viii) a contract with the City of Needles relating to the closure

of the Needles Landfill; and (ix) a contract for performing day to day operations at the facilities comprising the Disposal System . These contracts, together with this Contract, will collectively be referred to as “**All System Contracts**”.

In performing its duties under this Contract, Consultant shall be required, pursuant to direction provided by the Manager of the Solid Waste Management Division, to coordinate such performance with the performance of the duties required of the contractors under each of the other All System Contracts. Likewise, the contractors under each of the other All System Contracts will be required to coordinate the performance of the duties required of it under the terms of its contract with the performance of the duties required of the contractors under each of the other All System Contracts, including this Contract. The goal of the County is to maximize, in the aggregate, the effectiveness of performance of the duties required under all of the All System Contracts to keep, operate and maintain the Solid Waste Disposal System, rather than to maximize the effectiveness of performance of duties required to be performed under any single All System Contract.

18. Compliance with Laws.

During the term of the Contract, Consultant shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex. Consultant shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

19. Conflict of Interest.

Consultant shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Consultant or officer or employee of the Consultant.

20. Former County Officials.

Consultant agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Consultant or its subcontractor(s) being utilized on this project. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates, or members of the business. The information also includes the employment and/or representative capacity and the dates these individuals began employment with or representation of Consultant. For purposes of this section, “County administrative official” is defined as a member of the Board of Supervisors or such officer’s staff, County Administrative Officer or member of such officer’s staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

21. Improper Consideration.

Consultant shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding any Contract awarded by County.

The County, by written notice, may immediately terminate any Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension, or evaluation process once a Contract has been awarded.

Consultant shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Consultant. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

22. Inaccuracies or Misrepresentations.

If in the course of the RFP process or in the administration of a resulting Contract, the County determines the Consultant has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, the Contract may be immediately terminated.

In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

23. RESERVED.

24. Representation of the County.

In the performance of the Contract, Consultant, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino.

25. Notice.

25.1 Service. Except as otherwise required by law, any notice, information, request or reply ("**Notice**") required or permitted to be given under the provisions of this Contract shall be in writing and shall be given or served either personally or by mail. If given or served by mail, such Notice shall be deemed sufficiently given if:

- (a) Deposited in the United States mail, certified mail, return receipt requested, postage prepaid, or
- (b) Sent by express mail, Federal Express, or similar overnight service, provided proof of service is available, addressed to the addresses of the Parties specified below in Section 25.4 or to such other address as may be duly specified by the respective parties.

25.2 When Effective. Any notice given or served by certified mail shall be deemed given or served three (3) business days after deposit in the mails, or as a signed receipt may show,

unless a copy of the Notice is concurrently transmitted by electronic or telephonic facsimile, in which case the Notice shall be deemed given or served as of the date of deposit of the original in the mails. Any Notice given or served by express mail, Federal Express, or other similar overnight service, shall be deemed given or served the day following deposit in the mails or delivery to the carrier, unless a copy of the Notice is concurrently transmitted by electronic or telephone facsimile, in which case the Notice shall be deemed given or served as of the date of deposit of the original in the mails or delivery to the carrier.

25.3 Change of Address. Either party may, by written Notice to the other in the manner provided herein, specify an address within the United States for notices in lieu of or in addition to the address set forth below. Consultant shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

25.4 Designation of Recipients. Until changed by Notice duly given, the following persons shall receive all notices required or permitted to be given under the provisions of this Contract:

(a) For Contractor:

Telephone:
Facsimile:

(b) For County:

Solid Waste Management Division
County of San Bernardino
222 West Hospitality Lane, 2nd Floor
San Bernardino, CA 92415-0017
Telephone: 909-
Facsimile: 909-386-8900

25.5 Facsimile Transmission. Service utilizing facsimile transmission as set forth above will be effective only in respect to a person who has included a facsimile telephone number as part of its address for notice pursuant to this Section.

26. Contract Assignability.

Without the prior written consent of the County, the Contract is not assignable by the Consultant either in whole or in part.

27. Contract Amendments.

Consultant agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the required persons.

28. Attorney Fees and Costs.

If any legal action is instituted to enforce any party's rights in the Contract, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorneys' fees directly arising from a third-party legal action against a party hereto and payable under paragraph 8, **Indemnification**.

29. Venue.

The venue of any action or claim brought by any party to the Contract will be San Bernardino County. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning the Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to San Bernardino County.

30. Jury Trial Waiver.

Consultant and County hereby waive their respective rights to trial, by jury for any cause of action, claim, counterclaim, or cross-complaint in any action, proceeding, and/or hearing brought by either Consultant against County or County against Consultant on any matter arising out of, or in any way connected with the Contract, the relationship of Consultant and County, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation emergency or otherwise, now or hereafter in effect.

31. Recycled Paper Products.

The County has adopted a recycled product purchasing standards policy (11-10), which requires contractors to use recycled paper for proposals and for any printed or photocopied material created as a result of a contract with the County. The policy also requires Contractors to use both sides of the paper sheets for reports submitted to the County whenever practicable.

In addition, the policy requires the use of recycled products in fulfilling contractual obligations wherever practicable. Attached hereto as Exhibit "4" is Policy 11-10 and Standard Practice 11-10SP implementing that Policy.

32. Miscellaneous Provisions.

32.1 Compliance with Legal Requirements. With respect to its performance of any work required under this Contract, Consultant and its subcontractors shall be required to meet all legal requirements the County requires all of its contractors to meet.

32.2 Covenant of Good Faith and Fair Dealing. The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing."

32.3 Determination of Rights – Disputes. Notwithstanding any other provision to the contrary contained herein, all disputes under this Contract which cannot be resolved by the parties shall be resolved by judicial action. All delinquent amounts due hereunder shall bear simple interest at the lower of the maximum rate permitted by law or the rate of seven percent (7%) per annum.

32.4 Complete Agreement; Priority. This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated herein by reference, and other documents incorporated herein, represents the complete agreement between the parties. It supersedes all prior agreements and proposals between the parties in respect to the subject matter hereof, and it may be amended, discharged or waived only by a further agreement in writing signed by each party. To the extent there is any conflict between the terms of the text of this Contract and the terms of any Exhibit or attachment to this Contract, the terms of the text of this Contract shall control the terms of the Exhibit or attachment.

32.5 Binding Effect. This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

32.6 Captions and Headings. Section, subsection, and paragraph captions and headings are used only for convenience and shall not be used in determining the intent of the parties in entering into this Contract nor in otherwise construing or interpreting this Contract.

32.7 Severability. If any provision of this Contract shall be declared illegal, void, voidable, or unenforceable, the other provisions shall not be affected but shall remain in full force and effect unless the resulting interpretation of the Contract shall materially alter the obligations of either party so as to work an unfair hardship on such party (the “**Burdened Party**”), in which case the Burdened Party shall have the option to request a re-negotiation of the Contract and/or to terminate this Contract upon at least ninety (90) days advance written notice to the other party. By way of clarification of, and not as a change to, the original intent of the parties, no such termination shall be deemed a termination for the convenience of the County.

32.8 Execution in Counterparts. This Contract may be executed in counterparts, each of which, when each party has executed and delivered a counterpart to the other party, shall constitute an original and enforceable contract for all purposes.

32.9 Governing Law. This Contract shall be governed by and construed according to the laws of the State of California.

32.10 Time for Performance. Time is of the essence in performance of this Contract and of each of its provisions.

[illegible]

COUNTY OF SAN BERNARDINO

Page 12 of 13

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Clerk of the Board of Supervisors
of the County of San Bernardino.

By _____
Deputy

Title _____
(Print or Type)

Dated: _____

Address _____

Approved as to Legal Form



County Counsel

Date _____

Reviewed by Contract Compliance



Date _____

Presented to BOS for Signature



Department Head

Date _____

Auditor/Controller-Recorder Use Only

<input type="checkbox"/> Contract Database <input type="checkbox"/> FAS	
Input Date	Keyed By

Standard Contract
Exhibit 1
Scope of Work

Standard Contract
EXHIBIT 2

Cost Proposal

Standard Contract
EXHIBIT 3

INVOICE SUMMARY

Company Name/Letterhead
Remit to Address
City, State, Zip Code

SAMPLE

Date

County of San Bernardino
Department of Public Works
Solid Waste Management Division
222 W. Hospitality Lane, 2nd Floor
San Bernardino, CA 92415-0017

Invoice # _____

Attention: Fiscal Section

Project Title: "Anytown" Landfill-Expansion

Description of the Project: Conceptual Design and Permitting for the Expansion Area

Contract #: **00-000**

INVOICE SUMMARY

Site Location	Task #	Scope of Work	Amount	Less Retention	Net Amount
"Anytown"	100	Design Parameters	\$	(\$)	\$
"Anytown"	200	Geotechnical Analysis	\$	(\$)	\$
"Anytown"	500	CEQA Support/Public Relations	\$	(\$)	\$
"Anytown"	900	Meetings/Project Coordination/Admin			
		Total Current Charges	\$		
		Less: 10% Retention	(\$)		
		Total Charges Due	\$		

Submitted by: _____
(Name) (Title)

(Telephone)

Note: ALL terminology should be consistent with language used in the contract.

Standard Contract
EXHIBIT 4

Standard Policy 11-10
And
Standard Practice 11-10SP